

APPEAL NO. 030411
FILED APRIL 15, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 24, 2003. The hearing officer determined that the respondent/cross-appellant (claimant herein) aggravated his preexisting back condition by twisting to place of box of parts on his bench at work on June 25, 2002; that the appellant/cross-respondent (carrier herein) is relieved of liability because that claimant did not timely report his injury to his employer; and that the claimant did not have disability because his injury was not compensable. The carrier appeals the determination that the claimant suffered an aggravation of his previous condition at work as being contrary to the evidence. The claimant appeals the timely report of injury and disability determinations. There is no response by either party to the other party's request for review in the appeal file.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

Conflicting evidence was presented on the issues of whether the claimant sustained an injury and whether he timely reported his injury under Section 409.001(a). The hearing officer resolved the conflicts in the evidence by determining that the claimant did sustain an injury but that the claimant failed to timely report his injury to his employer and therefore did not sustain a compensable injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the determination that the claimant did not have disability because disability is by definition contingent upon a finding of a compensable injury. Section 401.011(16).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **FEDERAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PARKER W. RUSH
1445 ROSS AVENUE, SUITE 4200
DALLAS, TEXAS 75202-2812.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge